

**\*E-FILED - 11/10/09\***

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

LORIE OTIS,	)	No. C 09-3871 RMW (PR)
	)	
Petitioner,	)	ORDER VACATING JUDGMENT
	)	AND RE-OPENING CASE; ORDER
v.	)	OF TRANSFER
	)	
WARDEN,	)	
	)	
Respondent.	)	
_____	)	

On August 24, 2009, petitioner, a California state prisoner, filed a motion for extension of time to file a federal habeas corpus petition but did not attach a petition. On September 30, 2009, the court dismissed this action for failure to state a case or controversy and closed the file.

On October 5, 2009, the clerk entered petitioner's motion for leave to proceed in forma pauperis (docket no. 7) and petition for writ of habeas corpus (docket no. 6) into the docket, indicating that the pleadings were filed on September 29, 2009. Accordingly, the court sua sponte VACATES the judgment and RE-OPENS petitioner's case.

However, petitioner seeks habeas relief from her underlying criminal conviction and sentence in Yuba County Superior Court, which lies in the Eastern District of California. Petitioner is currently housed in Chowchilla, California, located in Madera County, which also lies in the Eastern District of California.

Venue for a habeas action is proper in either the district of confinement or the district of conviction, 28 U.S.C. § 2241(d); however, petitions challenging a conviction or sentence are preferably heard in the district of conviction. See Habeas L.R. 2254-3(a); Laue v. Nelson, 279 F. Supp. 265, 266 (N.D. Cal. 1968). Here, the Eastern District of California is the district of conviction.

Accordingly, this case is TRANSFERRED to the United States District Court for the Eastern District of California, the district of petitioner's conviction at issue in this petition. See 28 U.S.C. § 1404(a); Habeas L.R. 2254-3(b)(1). The clerk shall terminate any pending motions and transfer the entire file to the Eastern District of California.

IT IS SO ORDERED.

DATED: 11/6/09

  
RONALD M. WHYTE  
United States District Judge